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May 22, 2013

BY EMAIL

Honorable Denise L. Cote
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

RE: FHFA v. UBS Americas Inc., et al., 11-cv-5201 (DLC)

Dear Judge Cote:

On behalf of defendants in the above-referenced action (the “UBS Defendants”), we write to respectfully request that the Court enter the enclosed proposed order (the “Proposed Order”), which adjusts certain deadlines governing this Action.

By order dated May 16, 2013, this Court ordered FHFA to meet-and-confer with the UBS Defendants regarding their request for an adjustment of certain deadlines governing this Action. The parties met and conferred on the morning of Saturday, May 18, 2013, and again on May 22, 2013. As reflected in the Proposed Order, the parties have reached agreement on adjusted deadlines for both the service of certain expert reports and for the briefing of summary judgment motions. These agreed-upon deadlines are consistent with this Court’s prior instruction that the deadlines for the full submission of summary judgment motions and for the submission of the Pretrial Order remain fixed at October 11, 2013 and December 6, 2013, respectively.¹

¹ The UBS Defendants have previously objected to these and other deadlines – including the January 13, 2014 trial date – which this Court has described as “immutable.” The UBS Defendants continue to object to these deadlines but, consistent with this Court’s May 9th order, do not challenge those deadlines here.

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The parties remain at an impasse, however, regarding the deadlines for the close of fact and expert discovery, respectively. FHFA has refused to agree to the UBS Defendants' proposal that fact and expert discovery close on December 6, 2013 – the same date upon which fact discovery is scheduled to close in the Tranche 2-4 Actions. As detailed in letters to the Court dated May 7, 2013 and May 15, 2013, respectively – which the UBS Defendants incorporate herein – FHFA's belated document production has made the present deadlines for the close of discovery entirely unworkable. Specifically, more than one-third of FHFA's document production has been produced since FHFA claimed to be substantially complete on January 25, 2013.² This belated document production has substantially prejudiced the UBS Defendants' ability to build and present their defenses.

Accordingly, while reserving all rights, the UBS Defendants respectfully request that the Court enter the Proposed Order, including the dates proposed by the UBS Defendants for the close of fact and expert discovery. An extension of the fact and expert discovery deadlines will remedy, in part, FHFA's belated document production, and will afford the UBS Defendants additional time to take the same discovery of FHFA that the Tranche 2-4 Defendants have the opportunity to take.

Respectfully submitted,



Robert A. Fumerton

cc: All counsel of record

² On May 17, 2013, FHFA produced an additional 800,000 pages of documents and informed the UBS Defendants that it had completed its document production. In total, FHFA has produced approximately 18.4 million pages of documents. As of January 31, 2013, FHFA had produced approximately 11.9 million pages of documents. Thus, FHFA has produced 6.5 million pages of documents – or 35% of its total production – since claiming to be “substantially complete.”